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10/078,271	02/20/2002	Manabu Takezaki	TAKEZAKI=1	3403

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EXAMINER

MANCHO, RONNIE M

ART UNIT PAPER NUMBER

3663

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/078,271

Applicant(s)

TAKEZAKI ET AL.

Examiner

Ronnie Mancho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 14 and 16-35 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-8, 14 and 16-35 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Travel Direction Warning Device.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-8, 14, 16-35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In amended claim 1, the applicant has added the new matter “traveling direction data relative to the traveling route having been traveled in the past is read out from a memory means and frequency of the traveling direction is obtained”. The applicant did not have possession of the claim limitation at the time the application was filed.

In claim 3, the applicant recites “probability relating to performance of the traveling direction”. The applicant did not have possession of the claim limitation at the time the application was filed.

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In claim 7, the applicant recites, “the plurality of the areas are considered to be in the same group and are identified to notify the direction”. The applicant did not have possession of the claim limitation at the time the application was filed.

In claim 26 the applicant recites, “the monotony driving detection means *sets* reference speed candidates on a high speed side and a low speed side of a pre-set reference speed *respectively*”. The applicant did not have possession of the claim limitation at the time the application was filed.

In claim 28, the applicant recites, “a voice output means for outputting a voice warning when the driving time or continuous traveling distance of the car detected by the comparator means is over the pre-set reference value”. The applicant did not have possession of the claim limitation at the time the application was filed.

In claim 31, the applicant recites, “the unsafe driving detection means detects abrupt steering by a given amount of rotation of the vehicle”. The applicant did not have possession of the claim limitation at the time the application was filed.

In claim 34, the applicant recites, “the voice output means is given in a certain ratio relative to a number of certain plurality of times or relative to once in a week or once in a month”. The applicant did not have possession of the claim limitation at the time the application was filed.

The rest of the claims are rejected for depending on a rejected base claim.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 3, 7, 18-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, it is not clear what all is meant and encompassed by the limitation, “probability relating to performance of the traveling direction”.

In claim 7, it is not clear what all is meant and encompassed by the limitation “the plurality of the areas are considered to be in the same group and are identified to notify the direction”.

In claim 26 it is not clear what all is meant and encompassed by the limitation, “the monotony driving detection means *sets* reference speed candidates on a high speed side and a low speed side of a pre-set reference speed *respectively*”.

In claim 28, the limitation “long driving or long distance traveling” is not well defined in the claims since what one person considers long could be short to another person.

In addition in claims 29-35 the applicant claims “direction warning device”, but the body of the claim does not seem to portray or indicate any direction warning situation. .

In claim 34, it is not clear what all is meant and encompassed by the limitation, “the voice output means is given in a certain ratio relative to a number of certain plurality of times or relative to once in a week or once in a month”.

6. Claims 4, 31-33 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are:

In claim 4, “wherein there are a plurality of different types of notification of the direction”.

In claims 31-33, “detects abrupt steering”.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-8, 14, 16-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Urano (5990898).

Regarding claims 1-8, Urano discloses a travel direction device. Note that the other limitations not cited here are limitations drawn to intended use limitations and do not affect the structure of the “travel direction device”.

Regarding claim 14, Urano discloses a travel direction device comprising a controlling means (figs. 1B, 8, 12; col. 25, lines 15-19) for setting a predetermined area centered about a school zone (col. 25, lines 34-62) as a school zone and giving warnings about cautions for travel when a car drives roads in the set school zone based on school days information and school time information, wherein said controlling means changes contents of warnings depending on school types, road types, isolation duration of the area, and vehicle speed.

Regarding claim 16, Urano discloses a travel direction device comprising a controlling means (figs. 1B, 8, 12; col. 25, lines 15-19) for setting a predetermined area centered about a

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school zone (col. 25, lines 34-62) as a school zone and giving warnings about cautions for travel when a car drives roads in the set school zone based on school days information and school time information, wherein said controlling means sends a deceleration command signal to a control device of the car when the car drives through the school zone so as to reduce the speed.

Regarding claim 17 (as best understood), Urano discloses a direction of travel warning device comprising:

a continuous driving detection means (fig. 1) for detecting a continuous driving condition of a car by comparing the driving condition of the car with a pre-set reference value of the driving condition, and a voice output means (140, fig. 1) for outputting a voice warning when the continuous driving is detected by the continuous driving detection means (col. 25, lines 15-62), wherein the voice output means changes expressions of the voice warnings, age and sex of the voice, depending on time zone, season, events, or a number of times of travel.

Regarding claim 18, Urano discloses the direction of travel warning device according to claim 17, wherein the continuous driving detection means detects long time driving.

Regarding claim 19, Urano discloses the direction of travel warning device according to claim 18, wherein the continuous driving detection means detects long distance driving.

Regarding claim 20, Urano discloses the direction of travel warning device according to claim 17, wherein detection by the continuous driving detection means is reset if discontinued for more than a predetermined period of time.

Regarding claim 21, Urano discloses the direction of travel warning device according to claim 17, wherein the travel warning direction device comprises a driver change detection means

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for detecting a change of a driver, and detection of the continuous driving detection means is reset when the driver change detection means detects the driver change.

Regarding claim 22, Urano discloses the direction of travel warning device according to claim 17, wherein a reference value changes depending on road types.

Regarding claim 23, Urano discloses the direction of travel warning device according to claim 22, wherein the reference value changed depends on time zone.

Regarding claims 24-27, Urano discloses the travel direction warning device comprising a monotony driving detection means and a voice means for outputting voice warnings when a monotony driving is detected

Note! The other limitations are not structural and it believed that the device of the prior art can perform the limitations that are not related to structure.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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10. Claims 28-30, 34, 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Okuda et al (6262657).

Regarding claim 28, Okuda et al disclose a travel warning direction device, in which the device outputs a voice warning when a driving of the car is detected by comparing a driving condition to a pre-set value (abstract; col. 8, lines 49-62).

Regarding claim 29, Okuda et al disclose a travel warning direction device, comprising an unsafe driving detection means for detecting unsafe driving (abstract; col. 8, lines 49-62) by comparing a driving condition to a pre-set value (abstract; col. 8, lines 49-62).

Regarding claim 30, Okuda et al disclose the travel warning direction device according to claim 29, wherein the unsafe driving detection means detects sudden start and sudden stop of the car.

Regarding claim 34, Okuda disclose the travel warning direction device according to claim 29, wherein the direction of warning is output by voice.

Regarding claim 35, Okuda disclose the travel warning direction device according to claim 29, wherein the direction of warning is output irregularly by a voice output means.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urao in view of Okuda.

Regarding claim 31, Urano discloses the travel direction warning device according to claim 29, but did not mention an unsafe driving detection means that detects abrupt steering motion. However, Okuda teach of a travel warning direction device wherein an unsafe driving detection means detects abrupt steering motion by rotation of the vehicle (col. 8, lines 49-62).

Therefore, it would have been obvious to one of ordinary skill in the art of vehicular safety at the time the invention was made to modify the Urano apparatus as taught by Okuda for the purpose of safely operating a car.

Regarding claim 32, Urano discloses the travel direction warning device according to claim 29, but did not mention an unsafe driving detection means that detects abrupt steering motion. However, Okuda teach of a travel warning direction device wherein an unsafe driving detection means detects abrupt steering motion by rotation of a steering wheel (col. 8, lines 49-62).

Therefore, it would have been obvious to one of ordinary skill in the art of vehicular safety at the time the invention was made to modify the Urano apparatus as taught by Okuda for the purpose of safely operating a car.

Regarding claim 33, Okuda disclose the travel direction warning device according to claim 31, wherein the unsafe driving detection means detects abrupt steering by using an angular velocity sensor.

13. The statements of intended use or field of use, "is set", "is read out from", "is given", "everytime the car drives", "selecting at least", "enters a predetermined area", "are indentified to

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indicate", "giving warnings", "for outputting", "control means changes", "for setting a predetermined", "sends a deceleration", "to control", "comparing", "changes expression", "is reset", etc clauses are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See *In re Pearson*, 181 USPQ 641; *In re Yanush*, 177 USPQ 705; *In re Finsterwalder*, 168 USPQ 530; *In re Casey*, 512 USPQ 235; *In re Otto*, 136 USPQ 458; *Ex parte Masham*, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. *In re Danly*, 120 USPQ 528, 531

Apparatus claims cover what a device is not what a device does. *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Response to Arguments

14. Applicant's arguments filed 1-23-06 have been fully considered but they are not persuasive.

The applicant claims are drawn to limitations which are directed to new matter. The applicant refers the examiner to pages 28 and 29 of the specification of applicant's disclosure as

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support for the amended limitation in the claims. As an example, the applicant recites “traveling direction data relative to the traveling route having been traveled in the past is read out from a memory means and frequency of the traveling direction is obtained”. The above referenced pages do not disclose or even suggest the new limitations. Applicant’s disclosure only cites the term, “frequency” only once at page 15 which reads, “The voice recognition portion 15 recognizes input voice by analyzing *frequency* of the word input from the microphone 14”. As another example, the applicant claims “relating to performance of the traveling direction”. As a further example, the applicant recites, “a monotony driving detection means *sets* reference speed candidates”. None of the above limitations are disclosed or even suggested by applicant’s disclosure.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication


16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronnie Mancho
Examiner
Art Unit 3663

3/31/06


JACK KEITH
SUPERVISORY PATENT EXAMINER